84-890

No. 84-

Office - Supreme Court, U.S.
FILED
NOV 19 1984
ALEXANDER L. STEVAS
CLERK

In The

SUPREME COURT OF THE UNITED STATES

OCTOBER TERM 1984

EMORY WORTH BROWN, JR., Petitioner,

v.

UNITED STATES OF AMERICA, Respondent.

PETITION FOR A WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE FOURTH CIRCUIT

Emory Worth Brown, Jr.
9211 MacSwain Place
Springfield, Virginia 22153
(703) 455-7005
Petitioner, Pro Se

VOLUME III
APPENDIX

VOLUME III

APPENDIX

APPENDIX D

7 December 1983

From: Captain Charles P. SILVIA, USN, 039-22-2624/1310

To: Chief of Naval Personnel

Via: Commandant, Naval District Washington, D.C.

Subj: Report of the Board of Inquiry in the case of CDR Emory Worth Brown, Jr., USN, 498-38-5240

Ref: (a) COMNDW ltr Code 04 1920(6) of 1 JUL 1983
(b) SECNAVNOTE 1920 of 30 MAR 1983

Encl: (1) Verbatim Transcript and Exhibits of subject Board (except transcript for testimony of 13 October 1983 - to be forwarded separately)
(2) Receipt indicating receipt by Respondent of transcript and Exhibits

1. As directed by reference (a), a Board of Inquiry was convened at Headquarters, Naval District Washington, D.C., pursuant to the provisions of reference (b) in the case of Commander Emory Worth Brown, Jr.,

USN. The board met on 22 August, 20 and 21 September and 1, 2, 13, 15, 17, 19, 20, 21 and 22 October 1983 and announced its decision 7 November 1983. Enclosures (1) and (2) are forwarded for your information and action.

2. Commander Brown is currently assigned to Headquarters, Naval District Washington, D.C. He is assigned TAD to Commander Naval Air Systems Command. Excluding his tour as Commanding Officer, Fighter Squadron Eighty-Four (VF-84), which gave rise to these proceedings, his entire career has been marked by exceptional performance and zealous devotion to duty.

3. Subsequent to Commander Brown's tour as Commanding Officer of VF-84, he was

convicted in Federal District Court of three felony counts of conflict of interest and one felony count of accepting a gratuity. This board was directed to determine, in light of these convictions, whether Commander Brown had maintained adequate levels of performance or conduct as evidenced by one or more of five reasons. The board met in closed deliberations and made the following findings on each of the following five allegations:

a. Failure to show acceptable qualities of leadership required of an officer in the member's grade:

The board found no evidence of poor leadership qualities during Commander Brown's tour as Commanding Officer of

VF-84. In fact, evidence presented indicated that Commander Brown was a superior leader. During his tour as Commanding Officer, the squadron received the Clifton Award (as the best fighter squadron in the Navy), the Battle "E", and the Golden Anchor Award.

b. Intentional misrepresentation or omission of material fact in official written documents or official oral statements:

The board found evidence of misrepresentation of facts in certain written documents that Commander Brown submitted on behalf of his squadron. Many supply documents were submitted for items in support of the

film "The Final Countdown" which were never directly used for that purpose. These items, inventoried by the squadron as items bought with movie company funds, are now government property.

c. A pattern of discreditable involvement with military or civilian authorities notwithstanding the fact that such misconduct has or has not resulted in judicial or nonjudicial punishment under the UCMJ:

The board found no evidence, in this case, of discreditable involvement with military or civilian authority.

d. Commission of a military or civilian offense which, if prosecuted

under the UCMJ, would be punishable by confinement of six months or more, and any other misconduct which, if prosecuted under the UCMJ, would require specific intent for conviction:

> The board (sic) found no evidence of misconduct, other than the four civil convictions, that, if prosecuted, would be punishable by confinement of six months or more or would require specific intent for conviction. The board (sic) noted that Commander Brown faced a total of 24 charges in Federal District Court; however, because he was found not guilty of 20 of these charges, they were not considered as offenses by the board (sic).

e. Conviction by civilian authorities or action taken which is tantamount to a finding of guilty, which, if service connected, would amount to an offense under the UCMJ:

> The board (sic) found that Commander Brown has, in fact, been convicted of three counts of Conflict of Interest and one count of Accepting a Gratuity. Evidence presented to the board (sic) supported the claim that Commander Brown did not benefit personally from the sale (to the Government) of hatch cover tables, for which he was convicted of conflict of interest. With regard to the conviction of accepting a gratuity, evidence supported the argument that the money provided to Commander Brown was in

payment for expenses incurred on behalf of the squadron and the movie company. The board (sic) is of the opinion that the payment in no way constituted a gratuity. The board (sic) also questioned why, if the payment was a gratuity, there was no individual charged with giving the gratuity. This was of concern to the board since the case was investigated by the FBI and brought before a Federal District Court only because a civilian was suspected of paying a bribe. However, no one was ever charged with the offense of paying a bribe or the lesser offense of paying a gratuity.

4. The NIS and FBI investigations (Exhibits 41 and 42 of enclosure (1))

were the basis for the government's case against Commander Brown. The board (sic) found these two exhibits, in the absence of other evidence, were very damning of Commander Brown. However, when considered with all relevant facts in the case, the board (sic) found these investigations filled with unsubstantiated allegations, many of which were based on rumor and innuendo rather than on good objective evidence.

5. The position of Commander Brown was that he was, in fact, not guilty of the offenses for which he was convicted and that he expected his convictions to be overturned on appeal. He admitted that he received the check (the alleged gratuity) from the company which produced the movie "The Final Countdown". His

position was that he did receive the check, but that he used it as reimbursement for his own out-of-pocket expenses in the production of the movie and in the performance of his duties to improve and maintain his squadron's spaces. The respondent admitted that his squadron did purchase furniture that he manufactured and which was sold by a merchant, normally on consignment. His position was that the amounts paid covered the squadron's account with the merchant for other merchandise and that no money passed to the respondent. he described these transactions as essentially a donation of furniture to the squadron. the respondent stated that he never realized any personal gain or profit in any of the incidents and never intended to make such gain. His position

was that his intentions were always to improve the morale of his personnel and the readiness of his command and to promote a good public image for the Navy through the movie. Commander Brown stated that he believed that under the Navy Judicial System he would not have been convicted because the true nature of his intentions and responsibilities as a Commanding Officer would have been understood. His position was that the Federal convictions were based on technical concepts of violation of the law which did not consider that he had unselfish motivations and made no personal gain. Commander Brown denied any improper intent in any documents or statements which did not accurately reflect the nature of expenditures and reimbursement. he admitted inaccuracies,

but denied dishonesty. Commander Brown's position was that he displayed the highest levels of good leadership in his unselfish and zealous devotion to the welfare of his subordinates, the combat readiness of the command and the broader goals of the Navy. The evidence presented to the board (sic) supported, in every instance, Commander Brown's version of the events.

6. The board (sic) acknowledges that Commander Brown engaged in questionable activities which were in violation of Navy directives. However, it is believed that Commander Brown is, basically, an honest man who always acted in the best interests of his subordinates and unit organizations. There is no evidence that Commander Brown profited monetarily by

his actions. By using more orthodox procedures the same beneficial results might have been achieved but with much greater expenditure of time and, possibly, greater expense.

Acknowledging that there were improprieties in procedures, it is the opinion of the board (sic) that other Naval personnel involved in this case also did not conform to or act in accordance with general policies governing the conduct of Naval personnel. SECNAVINST 5370.2G, paragraph 5I, states that "Naval personnel who have information which cause them to believe that other DOD personnel have violated a statute or standard of conduct ... should bring the matter to the attention of the appropriate command authority. the

matter thereafter should be brought to the attention of the person concerned, for possible resolution without further command action, unless the command determines that such communication is not likely to remedy the problem or will adversely affect a proper investigation of the matter." It is the opinion of the board (sic) that the Executive Officer of VF-84, when Commander Brown was Commanding Officer, and other officers senior to Commander Brown in the chain of command, did not follow a logical course of corrective action as provided by the guidelines of SECNAVINST 5370.2G, but rather pursued a course of action that ultimately allowed the matter of a lack of inventory custody cards and return of Navy property to the squadron to develop into a case that destroyed a

front-running officer's career and has the potential for needless adverse publicity to the navy.

7. The board (sic) found, by a unanimous vote, that separation for cause is not warranted and recommends that the case be closed.

8. Commander Brown has been provided a copy of this report.

/s/ C. P. SILVIA, CAPT, USN
Senior Member

/s/ J. M. Tamony, CAPT, USN
Member

/s/ T. FIJAK, Jr., CAPT, USN
Member

APPENDIX E

18 U.S.C. 201 provides:

(a) For the purpose of this section:

"public official" means Member of Congress, the Delegate from the District of Columbia, or Resident Commissioner, either before or after he has qualified, or an officer or employee or person acting for or on behalf of the United States, or any department, agency or branch of the Government thereof, including the District of Columbia, in any official function, under or by authority of any such department, agency or branch of Government, or a juror; and

"person who has been selected to be a public official" means any person who has been nominated or appointed to be a public official, or who has been

officially informed that he will be so nominated or appointed; and

"official act" means any decision or action on any question, matter, cause, suit, proceeding or controversy, which may at any time be pending, or which may by law be brought before any public official, in his official capacity, or in his place or trust or profit.

(c) Whoever, being a public official or person selected to be a public official, directly or indirectly, corruptly asks, demands, exacts, solicits, seeks, accepts, receives, or agrees to receive anything of value for himself or for any other person or entity, in return for:

(1) being influenced in his performance of any official act; or...

Shall be fined not more than $20,000 or three times the monetary equivalent of the thing of value, which ever is greater, or imprisoned for not more than fifteen years, or both, and may be disqualified from holding any office of honor, trust, or profit under the United States.

(g) Whoever, being a public official, former public official, or person selected to be a public official, otherwise than as provided by law for the proper discharge of official duty, directly or indirectly asks, demands, solicits, seeks, accepts, receives, or agrees to receive anything of value for himself for or because of any official act performed or to be performed by him; or ...

Shall be fined not more than $10,000 or imprisoned for not more than two years, or both.

18 U.S.C. 208 provides:

(a) Except as permitted by subsection (b) hereof, whoever, being an officer or employee of the executive branch of the United States Government, or of the District of Columbia, of any independent agency of the United States, or of the District of Columbia, including a special Government employee, participates personally and substantially as a Government officer or employee, through decision, approval, disapproval, recommendation, the rendering of advice, investigation, or otherwise, in a judicial or other proceeding, application, request for a ruling or

other determination, contract, claim, controversy, charge, accusation, arrest, or other particular matter in which, to his knowledge, he, his spouse, minor child, partner, organization in which he is serving as officer, director, trustee, partner or employee, or any person or organization with whom he is negotiating or has arrangement concerning prospective employment, has a financial interest -

Shall be fined not more than $10,000, or imprisoned not more than two years, or both.

(b) Subsection (a) hereof shall not apply (1) if the officer or employee first advises the Government official responsible for appointment to his position of the nature and circumstances of the judicial or other proceeding,

application, request for a ruling or other determination, contract, claim, controversy, charge, accusation, arrest, or other particular matter and makes full disclosure of the financial interest and receives in advnace a written determination made by such official that the interest is not so substantial as to be deemed likely to affect the integrity of the services which the Government may expect from such officer or employee, or (2) if, by general rule or regulation published in the Federal Register, the financial interest has been exempted from the requirements of clause (1) hereof as being too remote or too inconsequential to affect the integrity of Government officers' or employees' services.

APPENDIX F

OFFICIAL REPORTS OF OFFICER FITNESS

NOTE: The narratives of each document appear with emphasis as added by the originator of the report.

SQUADRON COMMAND TOUR (1979-1980)

First Report (1979):

CDR Brown is an exceptional Naval Officer. He was unquestionably the number one Commanding Officer of the nine in this Air Wing. He is intelligent, dynamic, articulate, and a prolific original writer.

His superb leadership traits and expert managerial skills provided FITRON EIGHT FOUR with a Fleetwide reputation for excellence. The squadron, under CDR Brown's guidance and encouragement, actively and aggressively sought challenging missions and with consummate skill, exceeded expectations in every instance. The squadron performed brilliantly during filming of the major motion picture, "The Final Countdown,", which will have great value in Navy recruiting efforts. CDR Brown's talent for organization and innovation were evident as he coordinated, directed, photographed, and flew in the fighter aerial sequences of the movie in an extremely demanding environment.

CDR Brown is an outstanding fighter pilot. He was the number one pilot in the Air Wing in landing grades throughout the deployment. He also joined that exclusive

group of Naval aviators who have made 1000 arrested landings. His patient concern and instructional techniques were directly responsible for his command being either number one or number two in landing grades during 4 competitive periods throughout the deployment. He is a superb tactician with a comprehensive knowledge of fighter tactics and a thorough understanding of the total mix of Air Wing assets and the most effective methods of employing those assets as a team. He led the squadron to the best performance ever recorded in the Fleet Fighter Readiness Program, personally developed an innovative combat air patrol doctrine which has been extremely successful in every test this deployment, and is a regular member of the Air Wing Tactics Board.

CDR Brown's strength as a leader of men is equal, by every standard, to his

ability as an aviator. He is totally involved in all squadron activities from athletics to retention, from safety to advancement, and from PAO to maintenance. The command's success is a matter of record: " Golden Anchor Award" for retention, eight years accident free, winner of a Meritorious Unit Commendation, winner of the Clifton Award, nominated for the Golden Mike Award, 100 percent officer retention for the fifth consecutive year, and outstanding aircraft combat readiness and material condition. These achievements were accomplished in a command climate cited by HRAV (Human Resources Availability Assessment) as the most outstanding ever evaluated, superb morale and employment of human resources.

CDR Brown consistently endeavors to improve his overall knowledge of the Naval profession and his value to the service.

He is qualified as Officer-of-the-Deck Underway, Combat Information Center Watch Officer, Engineering Officer-of-the-Watch, Commander Duty Officer in Port, and is in the final phase of Command Duty Officer Underway and Surface Warfare Officer Qualification. He also participates in a dedicated onboard study program for nuclear reactor engineering and plant operation.

CDR Brown is fully qualified for second command in grade, and is specifically recommended for a Carrier Air Wing. He is most strongly recommended for accelerated promotion to Captain.

88a. CDR Brown's involvement in retention, advancement, morale and the welfare of his men is complete. He is a gentleman who cares about his people and extends his considerable effort in their behalf. The "Golden Anchor Award"

attests to his success.

/s/ CDR R. M. FERGUSON

Second Report (1980):

CDR Brown's performance was superb during this reporting period. He remains number 1 of 9 outstanding Commanding Officers in this Air Wing. During the recently concluded Indian Ocean deployment, his squadron continued to be the leaders in tactical innovation and efficient and effective utilization of flight time. The squadron was named winner of the coveted Clifton Award designating them as the Number One Fighter Squadron in the Navy, for the second consecutive year. Effectiveness in retention and public affairs continued to be superb and were the benchmark for other squadrons in the Air Wing.

CDR Brown was number 2 in the Air Wing

in landing performance over the 9 month period, an outstanding achievement. He also received his final qualification as a Surface Warfare Officer, a remarkable achievement in view of the multitude of other duties and responsibilities associated with command.

CDR Brown has my unqualified support for command of a Carrier Air Wing and accelerated promotion to Captain

88a. Retention is an every day, every man business in VF-84 and the effort is led by the Commanding Officer. Their success is a matter of record and can be attributed to a great extent to the dynamic leadership of CDR Brown.

/s/ CDR R. M. FERGUSON

NAVAL AIR SYSTEMS COMMAND (1980-1984)

First Report (1980):

Commander Brown is a brilliant officer whose unerring judgment, professional accumen and devotion to duty are unsurpassed. He is a true leader, who, as a relatively new Assistant Project Manager for the F-14 Aircraft, is developing rapidly into a foremost Weapons System Acquisition Manager.

Before he could become acclimated to the NAVAIR environment, CDR Brown was selected as the Navy specialist on a Joint Services Air Defense Team sent to Saudi Arabia to upgrade their capability for protecting key petroleum production installations. This assignment was cited for its critical world interest with the Team reporting directly to the Chairman, Joint Chiefs-of-Staff, in consonance with

the Secretaries of State and Defense. CDR Brown was specifically cited for:

* Developing procedures for and coordinating Navy and Air Force C-3 data-link networks.

* Establishing groundwork for USN contingency air support operations including tactical doctrine and procedures for USN support of USAF special purpose aircraft.

* Organizing quick reaction alert fighter procedures and battle management plans for the Royal Saudi Air Force.

* Determining critical zones and attack criteria that resulted in total redirection of the Saudi missile defense system. In addition, he demonstrated the requirement for and established a Saudi Air Defense Advisory Zone and its fighter response boundary.

* Incorporating the Saudi Naval training radar as an operational air defense element resulting in a multi-million dollar savings in assets.

Because of his recent F-14 command experience in the Indian Ocean, participation in planning for the Iranian Hostage contingency operations, expertise in C-3 applications, broad knowledge of missile

defense systems, Surface Warfare qualfication, and expansive fighter operations background, he was extended one month in his assignment to the Saudi Special Regional Air Defense Team. For performance having great national importance, CDR Brown has been nominated for the Joint Services Commendation Medal.

CDR Brown is performing superbly as F-14 Class Desk Offcier. He is an exceptionally competent, versatile and skilled technical manager. His extensive F-14 operational and test pilot experience extending from program initiation has provided an added dimension and invaluable insight in prioritizing requirements in a demanding fiscal environment. His long term association with industry management, engineering and flight test personnel, and depth of program knowledge and experience facilitate lines of communication and

enable positive control of project initiatives. He is uniquely qualified and a leading authority in F-14 aircraft carrier suitability. CDR Brown's flight test expertise in carrier configurations is a vital source of pilot and engineering recommendations. He is developing a computer assisted airplane configuration management program to assess specific impact of proposed engineering changes on all system integration parameters.

CDR Brown is a dedicated team player, who is personable, professional and widely respected by program associates for his composure and ability to approach all situations with logic and objectivity. He adroitly maintains positive control over individual temperaments in meetings involving controversial issues and channels discussion resolutely toward goal attainment. Defense contractors appreciate his

straight-forward approach and sense of responsibility towards Government and industry. He carefully evaluates fiscal funding requirements to ensure optimum expenditure of defense funds while retaining industrial engineering quality and an established base of technical expertise. He is genuinely attuned to acquisition of the best possible product for the Fleet and particularly responsive to Fleet need for continuous program status update. CDR Brown initiated a system safety review message report and expanded technical management manual distribution to include Fleet units. He even installed a telephone recorder system to respond to after working hours requirements.

CDR Brown directed a concentrated effort to reduce travel requirements and minimize expenditure of funds for program associated meetings. His analysis and

revision of technical, program management and system safety review conference schedules and formats has permitted joint attendance by representatives, maximizing meeting effectiveness and reducing meeting directions.

CDR Brown presents an impeccable personal appearance and executive demeanor in military or civilian attire. He is at ease and in control of the situation in the presence of senior Governmental, corporate or military personnel. He has a strong sense of moral courage to articulate in support of strong national defense initiatives and acceptable living standards for military personnel. An avid physical fitness enthusiast, he is currently developing a weight-lifting and gym facility for NAVAIRSYSCOM. Also, he established an extensive professional library for Class Desk Officers to support

self-study in Naval warfare and management theory. He is an eager student of defense systems acquisition theory.

Although I have ranked CDR Brown two of three 1310-designated officers, he ranks four of 13 Class Desk Officers who include nine Commanders and four Lieutenant Colonels. The margin of difference in performance between CDR Brown and the top-ranked Class Desk Officer is paper-thin; notwithstanding the fact that CDR Brown has one year less tenure as Class Desk Officer. Based on my observations of his aggressiveness and potential, I am confident he will rise to even greater performance and distinguish himself and NAVAIR. <u>It is my strongest belief and recommendation that CDR Brown should be selected for Captain ahead of his contemporaries and for Major Program Manager</u>.

/s/ CAPTAIN D. J. TAFT

Second Report (1981):

CDR Brown's performance as the F-14 Assistant Project Manager (Systems and Engineering), or Class Desk, has been outstanding over this four month period. He is a dynamic and dedicated officer in charge of a team of civilian engineers and military officers who are responsible for maintaining the readiness and viability of the Navy's most important fleet air defense system. As the engineering team leader for the F-14, he is responsible for maintaining and improving aircraft readiness as well as conducting the detailed planning for future F-14 modifications.

The following is a partial listing of CDR Brown's activities and is indicative of the breadth and scope of his responsibilities:

* Coordinated engineering preparation for flight test of the advanced technology F-101 derivative fighter engine. This program was completed ahead of schedule and below cost because of CDR Brown's hands-on involvement in planning and program execution.

* Developed a position on future computer/software requirements for the advanced avionics improvement program. He diligently sought the advice and recommendations of a wide spectrum of experts in order to compile a matrix of information from which technical and programmatic decisions could logically be made.

* Headed the engineering investigation of three major aircraft problems which potentially could have led to fleet-wide groundings. His skillful technical assessment, knowledge of fleet operations and aircraft flight characteristics and ability to coordinate with type commander representatives averted major disruptions in fleet operations.

* Directed the entire effort to replace existing F-14 brakes with the new improved carbon brakes. He initiated an innovative certification testing program, chose the most productive contracting options, which included special product warranties, and finally overcame engineering problems leading to a new brake installation in production aircraft eight months ahead of schedule.

CDR Brown is an impessive officer who makes an excellent and lasting first impression. He is outgoing, friendly and exudes confidence. In public appearances, he is an outstanding representative for the Navy. He has been active in public affairs, working with the Smithsonian Air and Space Museum to upgrade the Naval Aviation exhibit. He coordinated Naval air participation in the Experimental Aircraft Association and Explorer Scout National Fly-in. He has also been chosen as a lecturer at the Defense Systems Management College because of his excellent academic background and outstanding presentation abilities.

CDR Brown is a leader in the finest Navy traditions. He motivates and takes care of those who work for him. There is no question in my mind that he will succeed wherever he is assigned. I cannot

recommend him highly enough for positions of increased responsibilities. He is unhesitantly recommended for sequential command, major program manager and accelerated promotion to Captain.

/s/ CAPTAIN J. F. CALVERT

Third Report (1982):

CDR Brown's performance as Assistant Project Manager (Systems and Engineering), or Class Desk, for the F-14 has been truly outstanding. He is an extremely dynamic, personable, and dedicated officer whose judgment and advice I highly value. During this reporting period he has had to perform under pressure of reduced personnel manning and increased workload. Engineering activity is at an all time high on the F-14 with numerous diverse programs requiring his personal attention and

management. He has it all under control. His accomplishments include:

* Personally directing the investigations and resolution of a major structural defect in the aircraft. He coordinated the engineering evaluation and inspection teams and maintained positive control over a potentially serious disruption in the fleet's ability to respond. Because of his efforts there was minimum impact on fleet operations.

* Scrubbing all F-14 technical efforts in order to find funds to complete a high angle of attack and asymmetric thrust flight test program. The results of this testing will expand operational capability and enhance safety and would not have been possible or completed without his personal dedication and drive to find funds.

* Coordinating flight test efforts in support of F-101 Derivative Fighter Engine program. Personally brought program in ahead of schedule and below cost. Provided operational inputs to study involving F-101 configured F-14. Brought study perspective back on track.

* Developed and implemented a unique requirements and priorities document which proved to be an extremely valuable management tool for the program manager.

CDR Brown is without question one of

the top two or three Commanders in all of NAVAIR. He ranks one of six in his competitive category and stands out in any grouping. I consider him one of the officers best suited for increased responsibility whether that be a major project manager or major aviation command. His accomplishments are numerous, his loyalty and dedication beyond reproach. Promote this officer to Captain at the earliest opportunity.

/s/ CAPTAIN J. F. CALVERT

Fourth Report (1982):

CDR Brown is one of the most impressive Class Desk Officers I've had the pleasure to work with. Assigned as the F-14 Assistant Project Manager (Class Desk), this intense and tenacious manager is pressure oriented, capable of handling

extremely high data rates without approaching saturation threshold, and constantly researches alternatives and formulates better approaches. CDR Brown is totally dedicated toward development of the best product for the fleet, based on the cornerstone of affordability and cost-benefit tradeoff. His positive con-trol of ECP's, field station budgeting and flight test programs has already generated maximum results at a savings of over 37 million dollars.

CDR Brown has surpassed other Class Desks in his performance of duty. Some of his unique accomplishments include:

* Aggressively constructed a case for accelerated upgrade of the F-14 as the most affordable alternative for the outer air battle challenge, rather than development of a next generation fighter.

* Engineered and designed the requirements for advanced avionics integration into the F-14, demanding configuration control in weight, power,

cooling and space to provide optimum installation with minimum impact on the airframe and systems.

* Developed and sponsored an exceptional fleet training program to instruct F-14 high angle-of-attack flying qualities and spin prevention technique. His efforts generated a totally different approach to control boundary flight, significantly reducing high angle-of-attack accident rates and enhancing aircraft confidence in this portion of the flight envelope.

Other high visibility issues resolved during this reporting period include afterburner thrust requirements for catapult launch, asymmetric thrust conditions on FORRESTAL Class Carrier number 4 catapult, engine failure effects during section take-off, flight testing of F-14 on developmental ski jump ramp and fire extinguishing modification requirements for the 101 DFE flight test vehicle. In each issue, the Class Desk position prevailed to the satisfaction and acceptance of all interested parties. This resounding

testimony to his exceptionally sound judgment and clear logic is most richly deserved.

CDR Brown has an extraordinarily high energy level. He amassed this impressive level of achievement while completing 33 semester hours towards an MBA degree (3.8 CPI), achieving 6 equivalent semester hours in computer science, qualifying for and beginning law school, instructing in the Technical Management Curriculum at the Defense Systems Managewment College, presenting a series of lectures in conjunction with the Smithsonian Air and Space Museum and the Aviation Historical Society, serving as special advisor in the production of the USS INTREPID Museum film on seapower, and training for marathons.

CDR Brown is truly the epitome of the Class Desk position and the professional Naval officer. He warrants my absolute

strongest recommendation for early promotion and subsequent assignment to sequential operational command or major system program management.

/s/ CAPTAIN G. R. NAKAGAWA

Fifth Report (1983):

Superior Naval officer, inspiring leader and proven acquisition management specialist. Extremely positive approach to all tasking. Has consistently achieved the highest level of professional excellence. Special testimony to CDR Brown's extraordinary loyalty and complete dedication to the Naval service is evidenced by his undaunted brilliant performance of duty despite external pressures which might have easily distracted or deterred a Naval officer with lesser qualities of perseverance, commitment and resolve.

CDR Brown executed his duties as F-14 Class Desk Officer in an exceptional manner setting the pace as a head-and-shoulders performer. His extensive array of achievements include:

* Attained the best engineering based accident rate on record for the F-14 through skilled assessment and prioritization of aircraft deficiencies and direction of rapid and effective corrective action.

* Directed extremely successful programs to resolve critical fleet problems involving structural fatigue, hook point failure and launch bar deformation avoiding almost certain fleet grounding and major operational impact in each instance.

* Generated numerous innovative cost and time reduction techniques to correct production and fleet retrofit problems and to maintain configuration control without pursuing the expensive long-term ECP process.

* Directed the F-14 Avionics Integration Program and Alternate Fighter Engine Program coordinating contractor development efforts; initiating procurement requests, statement of work, full scale development and detailed specification documents; directing critical computer software recoding and development analyses and providing to the

Program Manager the complete engineering base for the F-14D decision.

Of particular note, during this reporting period the Secretary of the Navy selected for the follow-on fighter the F-14D options and computer system architecture developed under the skill and expertise of CDR Brown. As Class Desk Officer responsible for coordinating the extremely difficult matrix of engineering and programmatic inputs in a fiercely competitive evaluation and selection process, he steadfastly maintained fleet interests as the controlling design element. CDR Brown refused to permit internal and external influence to divert his thorough analysis effort which became the basis for the technical aspects of this critical $800 million development program. His foresight will enable the fleet to receive this affordable weapons system which

incorporates emerging technologies for more effective F-14D offensive and defensive operational capability at a significant cost savings.

CDR Brown served with distinction as the Operations Analyst for Strike Aircraft working critical issues of Forward Pass, Advanced Missile Systems, Air Wing Composition, A-6F, VFMX Operational Design Requirements and Criteria, Outer Air Battle and F-14 Block Upgrade. His unique operational background and experience as a test pilot, fighter squadron commander and designated surface warfare officer and his extensive knowledge of the defense systems acquisition process enabled an indepth project analysis and contributed immeasurably to the successful prosecution of the cited programs.

In a display of tenacity and essentially unbounded energy that has

characterized his performance, he accomodated all tasking and responsibilities in a flawless manner while simultaneously executing final requirements for an MBA and completing his third semester in Law School at George Washington University. CDR Brown has continued to serve as an adjunct instructor in Technical Management at the Defense Systems Management College and to lecture on aviation in support of the Smithsonian Air and Space Museum. he is extremely active in his church and is president of his community association.

CDR Brown is an absolute top performer whose command presence, leadership, drive, initiative and professional performance merit my strongest possible recommendation for accelerated promotion and sequential operational command or major system program management

/s/ CAPTAIN G. R. NAKAGAWA

Sixth Report (1984):

Although Commander Brown was ordered for administrative purposes to the Naval District Washington, at the specific request of the Commander, Naval Air Systems Command, he remained in his present billet as Operations Analyst for Systems and Engineering under TDY orders for the entire duration of administrative assignment.

Extraordinary Naval Officer. Placed interests of the Navy before his own under circumstances that would have deterred the ordinary man. In a spirit of exceptional Navy organization support and loyalty, he aggressively pursued his Systems Command billet responsibilities in addition to fulfilling other demanding requirements imposed. He consistently channeled maximum effort toward project tasking at potentially significant personal detriment.

His superior professional performance and continued exceptional contributions to operational readiness distinguish him as a Naval leader of merit and support my strongest recommendation for accelerated promotion and command.

Commander Brown displayed the highest standards of moral courage and dedication to duty in project analysis and execution. His positive and open approach, wide ranging and in-depth operational and systems acquisition expertise and the respect afforded him by his associates enabled him to maintain extremely effective working relations and to efficiently drive to the core of complex issues. His judgment was consistently proven to be sound and his decisions to be thoroughly researched and well founded.

Uniquely qualified as a combat fighter pilot, test pilot experienced in all

tactical aircraft, fighter squadron commander and designated surface warfare officer, Commander Brown provided invaluable experience and expertise to the Analysis Division and was the linchpin in the successful prosecution of the following critical projects:

* VFMX: Navy feasibility investigation of multi-mission aircraft to replace F-14 and A-6.

* F-14 Block Upgrade: Determination of most effective engineering and systems approach to incorporation of avionics, radar and engine upgrades in development of the F-14D.

* VMX: Strike assessment and effectiveness comparison of A-6E, A-6F, F/A-18 Derivative and VMX for Blue Ribbon Panel on VMX.

* Air Wing Composition: Assessment of A-6 and F/A-18 self-escort capability in comparison to traditional dedicated fighter escort in development of most effective air wing mix.

* IRST: Analysis of IR long and medium wave systems to determine most feasible approach for F-14D, F/A-18, EA-6B and E-2C incorporation.

* Advanced Missile System: Assessment of Advanced Missile System and comparison of associated concepts for outer air battle missile. Applied unique operational and engineering background in adapting system to F-14.

In his prior assignment as F-14 Class Desk Officer, Commander Brown had directed the F-14 Avionics Improvement and Re-Engining programs, coordinating contractor development efforts, formulating sensitive computer software recoding and development analyses and providing technical and engineering recommendations relied upon explicitly by the Program Manager for the F-14D decision. During this reporting period, the Secretary of the navy determined the F-14D options and computer system architecture developed under the guidance of Commander Brown to be the logical approach to fighter modernization and directed contract negotiations for the program. Commander Brown's foresight,

moral courage to reject external influence and to drive to the bottom line in fiercely contested technical issues, and his skill in coalescing adversarial interests into a singular goal were major factors in the F-14D Program and will contribute significantly to Fleet realization of a cost effective and highly capable weapons system.

Commander Brown continues to expand his educational base. He extended his MBA program by conducting an independent research study on Navy systems acquisition assessment and costing, and he completed his fourth semester in Law School. He has actively assisted his associates at the Systems Command in establishing advanced degree programs in consonance with the Navy Education and Training Office. In fulfilling his personal commitment to community service, he is active in his

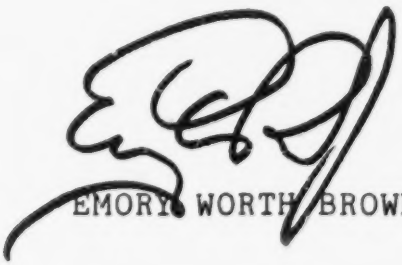
church and serves as President of the Community Association.

Commander Brown is an exemplary leader- stable; dynamic; aggressive; innovative; courageous; decisive. He thrives on pressure, has incredible staying power and adheres tenaciously to his principles. He represents the epitome of the combat commander. A thoroughly professional and superior standout performer, he warrants my strongest possible recommendation for accelerated promotion, sequential operational command and major system program management.

/s/ REAR ADMIRAL L. C. CHAMBERS

NOTE

The Petition for Rehearing submitted as Appendix C has been annotated by adding selected statements from the transcript of the Trial in Federal District Court where so noted in the text. This action was taken to provide continuity and clarity for the reviewer as to the issues developed. In addition, a critical segment was erroneously ommitted by counsel with respect to the testimony of Chief Roger MacCallum. This segment has been added for clarity and noted by the addition of brackets.



EMORY WORTH BROWN, JR.